



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/542,149	06/22/90	KEITH	J

FOLEY & LARDNER
SUITE 500
3000 K ST. N.W.
WASHINGTON, D.C. 20007-5109

18M2/0502

BUGAISEXAMINER	
ART UNIT	PAPER NUMBER
1814	37

DATE MAILED:

05/02/94

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

See attached.

Art Unit: 1814

Claims 11, 13 and 15-16 are allowable. Prosecution is now closed.

The amendment to the specification is entered, as it is clear that an inadvertent error in sequencing of the deposited parental strain occurred. The amendment does not constitute new matter.

5 The change in inventorship is permissible. It does not appear necessary to revive parent application 07/311,612 in order to grant priority (MPEP § 201.3 re continuing applications). There is, however, now no continuity between this application and 06/843,727 (Patent No. 4,883,761).


10 All claims are allowable. However, due to a potential interference, *ex parte* prosecution is SUSPENDED FOR A PERIOD OF 3 MONTHS FROM THE DATE OF THIS LETTER.

 Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

15 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriele E. Bugaisky, Ph.D. whose telephone number is (703) 308-4201.

20 Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM-1 Fax Center numbers are (703) 308-4227 and (703) 305-3014.

 Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.


ROBERT A. WAX
SUPERVISORY PATENT EXAMINER
GROUP 180


geb

April 27, 1994



Paper No. 37

UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: BOX INTERFERENCE

COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

Filed by: Michael Sofocleous

Telephone: (703) 308-9823

Facsimile: (703) 308-7952

MAILED

MAR 3 0 1998

**PAT & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Applicant: Cieplak

Application No.: 07/542,149

Filed: 06/22/90

For: PERTUSSIS TOXIN GENE:

CLONING AND EXPRESSION

Accorded Benefit of: U.S.

Application No. 07/311,612,

filed 02/15/89, now

abandoned

This case referred to above has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interference with other cases hereafter specified. Attention is directed to the fact that this interference is declared pursuant to 37 CFR § 1.601 et seq., effective February 11, 1985 (49 Fed. Reg. 48,416 (1984); 1050 Off. Gaz. Pat. & Trademark Office 385 (Jan. 29, 1985)), and amendments effective April 21, 1995. See Notice of Final Rule, 60 Fed. Reg. 14,488 (1995), reprinted in 1173 Off. Gaz. Pat. & Trademark Office 36 (Apr. 11, 1995). A clean copy of the interference rules, as amended, appears at 1173 Off. Gaz. Pat. & Trademark Office 384 (Apr. 18, 1995). The interference is designated as No. 104,172.

By direction of the Commissioner of Patents and Trademarks and as required by 35 U.S.C. § 135(c), notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference."

Application No. 07/542,149

The cases involved in this interference are:

Junior Party

Applicants: WITOLD CIEPLAK
Northwest 237 Hilltop Dr.
Hamilton, MT 59840

Application No.: 07/542,149, filed 06/22/90

For: PERTUSSIS TOXIN GENE: CLONING AND
EXPRESSION

Assignee: U.S. Department of Health and Human
Services

Attorneys of Record: Reid G. Adler, James C. Haight,
Marjorie D. Hunter, Gloria Richmond,
Robert Benson, Jack Spiegel,
Thomas G. Wiseman, Dante J. Picciano,
Susan S. Rucker, David R. Sadowski and
Larry Hyman

Associate Attorney: Arthur Schwartz, Donald D. Jeffrey,
Richard L. Schwaab, Peter G. Mack,
David A. Blumenthal, Joseph D. Evans,
John J. Feldhaus, Stephen A. Bent,
Bernhard D. Saxe and Colin G. Sandercock

Accorded Benefit of: U.S. Application No. 07/311,612, filed
02/15/89, now abandoned

Address: FOLEY & LARDNER
P.O. Box 299
Alexandria, VA 22313-0299

Junior Party

Applicants: MICHEL H. KLEIN
16 Munro Blvd.
Willowdale, Ontario
Canada M5A 3M2

HEATHER A. BOUX
88 Timpson Dr.
Aurora, Ontario
Canada L4G 5N4

Application No. 07/542,149

Applicants (Cont'd.): STEPHEN A. COCKLE
159 Stephen St.
Richmond Hill, Ontario
Canada L4C 5P9

SHEEN M. LOOSMORE
70 Crawford Rose Dr.
Aurora, Ontario
Canada L4G 4R4

GAVIN R. ZEALEY
49 Bay Hill Dr.
Concord, Ontario
Canada L4K 1G8

Application No.: 08/070,879, filed 06/03/93

For: GENETIC DETOXIFICATION OF PERTUSSIS TOXIN

Assignee: None

Attorneys of Record: Peter W. McBurney, Michael I. Stewart,
Thomas T. Rieder, Roger T. Hughes,
John H. Woodley, Stephen J. Perry,
Patricia A. Rae and John R. Orange

Associate Attorney: None

Accorded Benefit of: U.S. Application Nos. 07/589,423, filed
09/28/90, now Patent No. 5,244,657,
issued 09/14/93; and 07/275,376, filed
01/23/88, now Patent No. 5,085,862,
issued 02/04/92

Address: SIM & MCBURNEY
Suite 701
330 University Ave.
Toronto, Ontario M5G 1R7 Canada

Senior Party

Patentees: MICHEL H. KLEIN
16 Munro Blvd.
Willowdale, Ontario
Canada M5A 3M2

Application No. 07/542,149

Patentees (Cont'd.):

HEATHER A. BOUX
88 Timpson Dr.
Aurora, Ontario
Canada L4G 5N4

STEPHEN A. COCKLE
159 Stephen St.
Richmond Hill, Ontario
Canada L4C 5P9

SHEEN M. LOOSMORE
70 Crawford Rose Dr.
Aurora, Ontario
Canada L4G 4R4

GAVIN R. ZEALEY
49 Bay Hill Dr.
Concord, Ontario
Canada L4K 1G8

Application No.: 07/788,313, filed 11/05/91, now U.S.
Patent No. 5,358,868, issued 10/25/94

For: GENETIC DETOXIFICATION OF PERTUSSIS TOXIN

Assignee: Connaught Laboratories Ltd., Willowdale,
Canada

Attorneys of Record: Peter W. McBurney, Michael I. Stewart,
Thomas T. Rieder, Roger T. Hughes,
John H. Woodley, Stephen J. Perry,
Patricia A. Rae and John R. Orange

Associate Attorney: None

Accorded Benefit of: U.S. Application Nos. 07/589,423, filed
09/28/90, now Patent No. 5,244,657,
issued 09/14/93; and 07/275,376, filed
01/23/88, now Patent No. 5,085,862,
issued 02/04/92

Address: SIM & McBURNEY
Suite 701
330 University Ave.
Toronto, Ontario M5G 1R7 Canada

Application No. 07/542,149

Count 1

A mutated DNA molecule encoding the S1 subunit of pertussis toxin, wherein the codon for arg9 has been mutated to encode a different amino acid, or

A method for generating a site directed mutant at the arg9 codon of the S1 subunit of pertussis toxin.



MICHAEL SOFOCLEOUS

Administrative Patent Judge

Telephone: (703) 308-9823

Facsimile: (703) 308-7952

MS:clm

Application No. 07/542,149

Attorneys for Cieplak et al.:

Reid G. Adler
FOLEY & LARDNER
P.O. Box 299
Alexandria, VA 22313-0299

Attorneys for Klein et al.:

SIM & McBURNEY
Suite 701
330 University Ave.
Toronto, Ontario M5G 1R7 Canada

Attorneys for Klein et al.:

SIM & McBURNEY
Suite 701
330 University Ave.
Toronto, Ontario M5G 1R7 Canada